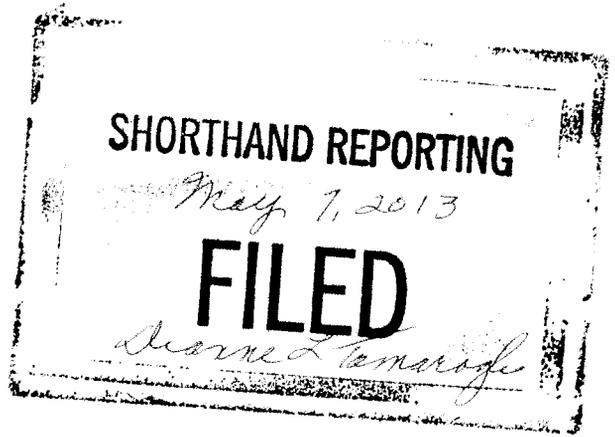


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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF COURT REPORTING

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IN THE MATTER OF THE LICENSE OF	:	
	:	<u>Administrative Action</u>
	:	
CAROL FITZSIMMONS, C.C.R.	:	
	:	
	:	CONSENT ORDER
TO PRACTICE COURT REPORTING	:	
IN THE STATE OF NEW JERSEY	:	

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This matter was opened to the New Jersey State Board of Court Reporting ("Board") following the Board's review of complaint concerning the court reporting services rendered by respondent Carol Fitzsimmons, C.C.R., ("Respondent") and her agency, Fitzsimmons Reporting and Videoconferencing ("Agency") in

or about July 2009. The complaint alleges that the respondent permitted an uncertified and unregistered person to engage in the practice of court reporting in her reporting firm.

Ms. Fitzsimmons appeared, without legal counsel, before the Board on September 21, 2009 for an investigative inquiry to answer questions concerning her practice of court reporting and her agency. During the inquiry, the respondent testified that she is the owner of the Agency. She indicated that her firm contains approximately eight (8) court reporters that are independent contractors. She further testified that all of the reporters affiliated with the Agency are certified court reporters except one, Christina Restuccia.

Ms. Fitzsimmons maintained, at the September 2009 inquiry, that on July 13, 2009, her office sent Ms. Restuccia to record a New Jersey deposition assignment scheduled for July 14<sup>th</sup>. The respondent testified that she knew at that time that Ms. Restuccia was neither certified as a court reporter nor registered as a temporary registered reporter by the Board. Ms. Restuccia accepted the assignment, appeared at the deposition and recorded the testimony and performed additional court reporting duties. Following the recording the testimony, Ms. Restuccia prepared a written transcript of the deposition. The respondent,

after reading the document, signed the certification page of the transcript and inserted her certification number. The certification page also contained the signature of Ms. Restuccia.

Following the inquiry, a review of the Board's licensure records was performed. The records indicated that Ms. Restuccia is neither certified by the Board to practice court reporting in New Jersey nor is she registered as a Temporary Registered Reporter in this State as authorized by N.J.S.A. 45:15B-9(b) and N.J.A.C. 13:43-2.2.

Moreover, additional documentation was reviewed by the Board, subsequent to the respondent's inquiry, which revealed that one other court reporter, Faith Kringer, who is both uncertified and not registered as a temporary registered reporter by the Board, has been permitted by Ms. Fitzsimmons to provide certified court reporting services in New Jersey from her Agency.

The Board finds that Ms. Fitzsimmons has an obligation to ensure that professionals affiliated with her reporting firm are properly certified and that, pursuant to N.J.S.A. 45:15B-9(a), is prohibited from engaging the services of an uncertified court reporter unless that reporter has been registered by the Board as a temporary registered reporter.

The Board concludes that cause for disciplinary action against the respondent exists as a result of the conduct detailed above, pursuant to N.J.S.A. 45:1-21(h) and (n). Specifically, the Board finds that respondent violated and failed to comply with the provisions of a regulation administered by the Board, contrary to N.J.S.A. 45:1-21(h), in that she engaged the services of at least two (2) persons to perform court reporting services when they were neither certified by the Board to engage in this activity in New Jersey nor were they registered by the Board as temporary registered reporters in this State, in violation of N.J.S.A. 45:15B-9(b).

The Board further concludes that Ms. Fitzsimmons aided and abetted uncertified persons in the practice of court reporting without certification. The respondent's admission, relative to Ms. Restuccia in her testimony before the Board, as well as in documentation she submitted, to the facts detailed above establish a violation of N.J.S.A. 45:1-21(h) and (n) and therefore provide a basis for disciplinary action.

It appearing that the respondent desires to resolve this matter; and the respondent acknowledging and not contesting the findings of fact and conclusions of law made by the Board; and waiving her right to a hearing; and the Board having been

satisfied that the within resolution adequately protects the public health, safety, and welfare; and for good cause shown;

ACCORDINGLY, IT IS ON THIS 24<sup>th</sup> day of APRIL 2013,

ORDERED THAT:

1. The respondent, Carol Fitzsimmons, C.C.R., is hereby formally reprimanded for her conduct as described above, in violation of N.J.S.A. 45:1-21(h) and (n).

2. The respondent shall immediately cease and desist from further violations of N.J.S.A. 45:1-21(h) and (n).

3. Ms. Fitzsimmons shall pay a civil penalty in the aggregate amount of \$4,500.00 for: 1) violating and failing to comply with the provisions of statutes and regulations administered by the Board, contrary to N.J.S.A. 45:1-21(h), by engaging the services of uncertified and unregistered persons to practice court reporting, contrary to N.J.S.A. 45:15B-9(a) and N.J.A.C. 13:44-2.1; and 2) permitting an unlicensed person, and aiding and abetting an unlicensed person, in the practice of court reporting, contrary to N.J.S.A. 45:1-21(n). Payment for the civil penalty shall be submitted contemporaneously with the signing of this Order, by certified check or money order, made payable to the State Board of Court Reporting and shall be forwarded to Dianne L. Tamaroglio, Executive Director, Board of

Court Reporting, 124 Halsey Street, Sixth Floor, Post Office Box 45019, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling \$4,500.00, in equal monthly installment payments of \$187.00 for a total twenty-three (23) months. The twenty-fourth (24<sup>th</sup>) and final payment will total \$199.00. The first payment shall be paid simultaneously with submission of this Order with subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Board.

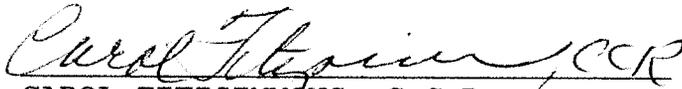
5. Failure to comply with any of the provisions of this Order or remit any and all payments required by this Order

will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD  
OF COURT REPORTING

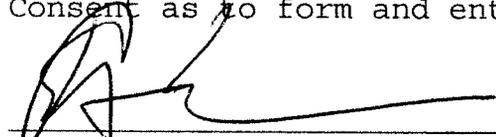
By:   
JEAN DOLAN, C.C.R.  
Vice-President

I have read and understand  
the within Consent Order and  
agree to be bound by its terms.  
Consent is hereby given to the  
Board to enter this Order.

  
CAROL FITZSIMMONS, C.C.R.

DATED: 3/29/13

Consent as to form and entry.

  
ROBERT A. MINTZ, ESQUIRE  
McCarter and English  
Attorney for Carol, Fitzsimmons, C.C.R.